M I N U T E S

FINANCE / PARKS & RECREATION / PUBLIC WORKS PROGRAMS COMMITTEE

October 26, 2011

A meeting of the Finance / Parks & Recreation / Public Works Programs Committee of the Council of the County of Kaua'i, State of Hawai'i, was called to order by Councilmember Mel Rapozo, Vice Chair, at the Council Chamber, 4396 Rice Street, Suite 201, Līhu'e, Kaua'i, Hawai'i 96766, on October 26, 2011 at 3:51 p.m., after which the following members answered the call of the roll:

Honorable Tim Bynum
Honorable KipuKai Kuali'i
Honorable Nadine K. Nakamura
Honorable Mel Rapozo
Honorable JoAnn A. Yukimura
Honorable Dickie Chang, Ex-Officio Member
Honorable Jay Furfaro, Ex-Officio Member

Mr. Bynum: I'd like to call the Finance / Parks & Recreation / Public Works Programs Committee to order, let the record reflect all members are present and Councilmember Yukimura will be here shortly. If it's okay with the Committee I'd like to take these bills out of order starting with Bill No. 2418, and then read Bill No. 2416 and Bill No. 2417 at the same time. We're going to have a presentation from the Administration followed up by questions. Is that okay with Committee members?

The Committee proceeded on its agenda item as follows, and as shown in the following Committee Report which is incorporated herein by reference:

CR-FPP 2011-12: on Bill No. 2418 A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2011-733, AS AMENDED, RELATING TO THE CAPITAL BUDGET OF THE COUNTY OF KAUA'I, STATE OF HAWAI'I, FOR THE FISCAL YEAR JULY 1, 2011 THROUGH JUNE 30, 2012, BY REVISING THE SURPLUS AND APPROPRIATIONS ESTIMATED IN THE BOND, GENERAL (CIP), AND HIGHWAY FUNDS (CIP).
[Approved.]

Bill No. 2416 A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX *(For the Tax Year 2012)*
[This item was deferred.]

Bill No. 2417 A BILL FOR AN ORDINANCE AMENDING CHAPTER 5A, KAUA'I COUNTY CODE 1987, AS AMENDED, RELATING TO REAL PROPERTY TAX *(For the Tax Year 2013)*
[This item was deferred.]

Mr. Bynum: So these two bills are pretty comprehensive changes to our tax system structurally on how we do things. We're going to have the Administration explain them. I just want to put in a little bit of context that there was a real property tax task force in 2004 that made recommendations to the Council. In the long run, after discussion they were not adopted. In 2008 there was a comprehensive tax proposal brought by the Baptiste Administration that spent several months here at Council with discussion. It was deferred pending a workshop, that was in 2008. That bill is still active on our pending logs and a number of those provisions are in this new bill and some are not. But I just want to say that this is kind of a third attempt to kind of do a structural change to how we manage the property tax system. With that I'll give you the floor. Oh I'm sorry, Councilmember Rapozo?

Chair Furfaro: Committee Chair...I'm sorry.

Mr. Bynum: Councilmember Furfaro.

Chair Furfaro: I just want to make sure. We have Bill No. 2416 which is a modified version of what originally we had as Bill No. 2412. And we have Bill No. 2417 which was modified from what we originally had as Bill No. 2413.

There being no objections, the rules were suspended.

STEVEN HUNT, REAL PROPERTY TAX: That is my understanding. I believe when the alternative energy piece was taken out of the original submittal they were reassigned bill numbers. That is correct.

Chair Furfaro: Okay. Thank you Mr. Bynum and Mr. Hunt for giving me clarity.

Mr. Hunt: Finance Chair, Councilmembers, as Chair...Oh sorry, Steve Hunt, Real Property Assessment, Real Property Officer for the record. As Finance Chair Bynum mentioned, these really are...this is one bill. We submitted it in two parts frankly because parts of it are very comprehensive and likely cannot be accomplished before 2012 assessment cycle rolls around and because we need the lead time. We wanted to have them heard now and the concepts debated and discussed on the floor and hopefully passed. But again, it takes quite a bit of time to implement some of the changes we'll be talking about which is why we have two bills. I will go through them both, hopefully they'll answer the questions as we go through why they are separate.

The intent of Bill No. 2416 is really to provide a fair and more comprehensive property tax system. The major concepts that are covered in this bill are: increasing the income exemption thresholds for resident homeowners; repealing the circuit breaker credit and grandfathering those that are currently receiving that credit; changing the permanent home use tax structure which currently is at a 2% cap; advance the calendar for the assessment notices and appeal filings so that more accurate information can be available for budget decision making; standardizes the timeframe for corrections to the assessment list, these are omitted properties; and increases the threshold for the Director and County Attorney to compromise assessments to the same level and authority given the County Attorney for claim settlement. I'll go through page by page. If you see at the top there under settlement authority this is page 1 of the actual bill that you have, this will correspond with page 1 of the draft that you have.

So on page 1, the major concept is that we're going to be requesting to increase the compromise from $500.00 to $5,000.00 which is again in concert with what the County Attorney has for claims right now.

On page 2, it advances the notice of assessments from the date of "on or before March 15" to "on or before February 15." The purpose of this again is to have the certified tax roll prepared earlier so that during your budgeting process you'll know what kind of values and tax projected revenue you'll be dealing with. That's on page 2.

On page 3, again we're moving the certification of the tax roll from May 1 to March 31. This allows the decision makers to have the ability to know what money will be available for budgeting purposes for the year. It's actually the first of two requests for time changes, but this is something we'll have to do in order to expedite getting you that information on the certification. Also on page 3, we talk about the omitted properties and the period for rollback. What we want to bring with this change is parit. Currently we have an adjustment for refunds; when the County is in error and is brought to our attention, we're only able to adjust the current year plus two years back. However, the ordinance currently reads that we may adjust any year or years, which is sort of open-ended when it's in our favor. So the rollback taxes could be very sizable for people when they get a seven or eight year omission of a building. Contract law has capped this. We've had a case law going before us that limits it at six years; the current plus five back, which is also what our current ordinance reads with adjustments to exemptions. So what we really want to do is just standardize it, level the playing field that any adjustments whether for a debit or a credit for the County would be on the same timeframe.

Page 5 is an adjustment to the ag dedication program. It really is just a language clarification. This language exists but there was some reference prior to the passage in yellow that referenced tree-farm management plans. It is in our treefarm ordinance section and it is in our ag dedication section, but it speaks to treefarms and doesn't clarify that this is also applicable to agricultural dedications. Essentially what this is saying is that you have to have a certain area, 50% of the land on 100 acre or greater parcels, in planting before you come before us for a dedication. At the bottom of page 5 we also define the usable areas, I'm sorry the unusable areas for agriculture purposes only. Often when people condominiumize their bulk ag and former lands that have been unsuitable really for farming activities and these are rocky areas or bluff sites, can be well suited for residential development and we've had people contest that the unsuitable lands for our dedication programs are really unsuitable and should not be assessed when they convert to residential. We just wanted to make sure that it's very clear that our definition of "unsuitable" is specific for the ag dedication only.

We next jump to page 8. This change has to do with the breach of ag dedications associated with subdivision or CPRs of dedicated parcels. If the remaining subdivided lots or CPR units are still greater than five acres in size and the owner is still continuing the use, he may come in and re-petition to continue that. Once he has actually done the breach he needs to notify us that they are still in use and rededicate them. It opens up a new window; their existing timeframe has stopped.

On page 9, we have some clean-up language from the Permanent Home Use Program. The election to the Permanent Home Use Program became, if you have a home exemption you shall receive the cap...it really overwrote the language that was meant for dedications. It had to do with the tenure permanent home use dedication. A lot of the dedication language it speaks to getting it dedicated still exists, so this is just some clean-up language to clarify that it's not a real dedication. You actually are getting it just by being a home use and homeowner and as an owner-occupant. The adjustment on the cap is something new, this is again on page 9. We are proposing to adjust the cap from a flat 2% to the greater of 2% or the Honolulu CPI Index. Now, during inflationary times often the 2% will not keep pace with the cost of running government. We also elected to have a floor of 2% again because often there are things outside of the CPI index that are still costs that the County must absorb. Some examples might be pre-negotiated bargaining units that have raises that are greater than the CPI Index, I think Police, Fire, some of those may have those already contractually obligated. Often, even though the CPI Index may be 1% or even 0%, the cost of running government still may be higher than that amount. So we had a floor of 2% but allowed it flow up as inflation were much greater than 2%.

The next change again on page 11, and this has to do with the rollback taxes again. This is when an exemption is being disallowed, someone who's filed for a home exemption has continued to receive that home exemption but there's evidence that shows maybe that person no longer lives there, has not lived there for multiple years. The current law says that we may rollback the current year plus five years back, up to five years back. So a total of six years, and again in the spirit of having a leveled playing field with our refunds and with our omitted properties we wanted to also set this at a maximum of three years which is the current year plus two years back.

The next change is on page 13, this has to do with a request to increase the homeowner exemption for income, these are low qualifying income from $55,000.00 to $80,000.00. That is the exemption amount.

Mr. Bynum: I apologize for interrupting you but I want to make sure that people are clear. You said it, but it can easily be confused. This is the homeowners, the exemption, because of low income.

Mr. Hunt: Only the low income on top of the basic exemption.

Mr. Bynum: But this isn't the homeowners exemption, this isn't the basic.

Mr. Hunt: Correct, not the basic exemption, this is the exemption for income.

Mr. Bynum: Okay, thank you.

Mr. Hunt: In addition to increasing the exemption from $55,000.00 to $80,000.00 we're also looking at changing the qualifying limits. The qualifying limits for the past 15 plus years have been $40,000.00 adjusted gross income. We're requesting to go to 80% of the Kaua'i median household income which would currently raise that amount from $40,000.00 to $56,400.00. The one caveat being we're looking at gross income, no longer adjusted gross income. So a lot of the write-offs that people take in their Schedule K's or bond funding income that is triple exempt bond income that is above line that they don't report an AGI really doesn't measure their wherewithal. We're looking at providing, really, relief to people who have gross income that is below that level of the 80%.

On page 14, we're talking about the gross income versus adjusted gross income. It goes on to define what would be included in that gross income calculation.

Page 17, we've never included the federal government leases of privately held properties on the exemption list. The County and the State of Hawai'i, when they lease a property from a private individual, are entitled to that exemption. I really think it was just an omission rather than a commission and I know there is some case law being tried right now with City and County that's probably going to change that anyway. So we're being proactive just to say- if a Federal Government Agency leases from a private individually we would extend them the same courtesy as another government agency.

Page 18, in order again to certify the roll earlier in putting out the assessment notices earlier we also have to move forward the appeal filing deadline. We're keeping the same timeframe; the number of days that they have to appeal from their notice of assessment, the deadline, but we're pushing it forward about a month. So we're requesting to go from April 9 to March 10.

That roughly concludes my first presentation on Bill No. 2416 but I'd like to continue to Bill No. 2417? Thank you.

Okay, Bill No. 2417 really is more of the meat of the reform. This takes time to implement again as expressed. We couldn't get this done before the 2012 assessment year. One of the big changes we're going to be talking about is a tax rate based on use rather than zoning. In order to do that, we're going to have to survey a whole lot of property owners and find out what the structures and properties are being used for. And then we'll set up that format for when changes of ownership occur, how we continue to monitor and survey the use of properties. It is a big undertaking and we're hopeful we can get this done for the 2013 if it is passed in a short manner.

The intent of Bill No. 2417 is to update Chapter 5A to provide again a fair and more efficient means of property tax assessment. Some of the major highlights of this bill are: advancing the data value from January 1 to October 1. This is currently being done with the City and County of Honolulu for the past nine years and much to their liking I guess, the revenue projections have been a lot more accurate because of the move in that date and that was the impetus behind them moving that date forward. So with a new assessment date we can provide, with much greater certainty, of what the revenue projections and potentially rate analysis can be during the period of budgeting. We're also looking at advancing the dates for exemptions and dedications which would also fall on line with the new date of value. Exemptions would now have to come before date of value of course. It does clarify Council's involvement in the rate setting process. Changes to tax classifications for properties now go from zoning to actual use. We're proposing to create a single value for assessments, no longer a bifurcated land and building but a single value for each property. Reduces the appeal threshold which will benefit taxpayers, we're proposing to go from 20% to 15% for the appeals. We are going to request that we increase the appeal fees to keep cost with the cost of holding our appeals.

Mr. Bynum: (Inaudible)

Mr. Hunt: Sure. Right now we're proposing to go to $25.00 for owner-occupants and $75.00 for non-owner-occupants per appeal.

Mr. Bynum: (Inaudible)

Mr. Hunt: Currently they're all $10.00.

Mr. Bynum: (Inaudible)

Mr. Hunt: Correct.

Mr. Bynum: (Inaudible)

Mr. Hunt: And $10.00 to $25.00 for owner-occupants, and to $75.00 for...yes. And if you need to know the other islands I can provide that later, if that's a question.

Okay, we're removing the apartment class and adding a vacation rental class because when you think about an apartment is really just a form of ownership. The apartment is either used, it's residentially used as either a vacation rental or it's an owner-occupant, or it's a long term rental, or it's an affordable long term rental. But really, those are uses of the property, the property itself is a residential property. So again we're going to be eliminating that class and replacing it with a use which is a short term vacation rental use, and it would have its own tax rate for that use. We're requesting to reduce the rent limits for long term affordable rentals from 100% to 80% of the median household income and extend them the same benefits as the PHU cap which would mean whatever the cap that is established for that year would apply to these properties. They would also benefit from the homestead tax rate, the only thing that would differentiate them would be they would not be entitled to the home use exemption.

Moving on, page 1 of the draft bill this is where we talk about moving the notice of assessment, sorry...Notice from on or before February 15 to December 1. Now we're crossing in years so it's of the preceding year, so if this bill were passed and implemented for 2013 we'd actually be sending it out December 1, 2012.

Throughout this bill we remove the references to land and building and replace it with the word "real property," again because we're proposing to go to a single value. The land and building are no longer treated separately but as one property because they typically are sold as one property. And again throughout the bill, you'll notice that there are various filing deadlines that had to be updated for the exemptions. Our exemptions typically are filed on or before December 31, we would move that to September 30 in order to meet our October 1 deadline for value.

On page 3, this is where we advance our date from January 1 to October 1 and again of the prior calendar year because we would actually be doing it as of 2012 for the 13 year assessment. On page 3 we talk about Council setting the tax rates for all property classes annually and we've clarified the language to see how that is done.

On page 5, we improve the definition of properties by calling them out, those that are subject to the minimum tax. On page 5 again we talk about removing the apartment class from this section and adding the vacation rental class. Also on page 5, because vacant land hasn't established a use we will still continue to assess and apply the tax rate appropriately for the zoning of until such time that improvements are erected and use is established then it will be tax class based on use.

On page 8, the insertion of "fee simple" was included. Before there was language that talked about the entirety, property in entirety and this was amended initially as a definition under our Administrative Rules. But we wanted to include this in the ordinance to make it real clear that the interest that we are obligated to assess annually are the fee simple interest. Pages 8 and 9, here we redact the tax classification and homestead language from the valuation section. This was in Chapter 5A-8.1, and really was kind of oddly placed really when we're talking about the classification. We're talking about the tax rates, not how we value, we value on highest and best use, so this was oddly placed and we put it back into Section 5A-6.4. So now with the new classification of vacation rental added and the homestead qualifications for that rate being in Section 6.4, it more evenly flows with the rate setting.

Now we jump to page 17, and here we're talking about a new time of filing deadline for ag dedications. Currently it's May 1, I'm sorry July 1, we're moving it to May 1 in order to accommodate our new date of value. Dedications are a little different than exemptions, they take time to process and review and approve. Although the exemptions are all done, as of September 30 in this bill we still need more time so the May 1 is continuing the same time allowed under the current system, but just moving it forward.

The eligibility for the home use exemption program and the cap, page 24, this standardizes the residential long term lease for both land and buildings. In the past, land had been 15 years in order to qualify as having your home interest to get a homestead and buildings were five years; because we're going into assessment of the entire property now with a single value, we've standardized that to 15 years. So in order to get a home exemption on a property you don't own, you have to have a 15 year lease in place.

Under the, on page 27 under the Disabled Veteran Section, this is an exemption again 5A-11.57. We've included the language for subletting of one room is not violating your home exemption or homestead. That's allowed under the home use exemptions now so that's been included in the Disabled Veteran Section as well to be consistent.

Page 32, the historical residential exemption. Again part two of this deals with properties that are non-owner-occupant where they qualify for 100% of the improvements, historical improvements, and 50% of the land because again we're not bifurcating assessments. We just said 75% of the entire property would be exempt for those qualifying properties. Qualifying rents for long term affordable rentals, we're reducing the rents for these properties from 100% of the Kaua'i median household income to 80%. These are set forth in the affordable rental housing guidelines through the Kaua'i Housing Agency. In this case we will provide a permanent home use cap and afford them the homestead rates, the only thing they will not enjoy again is the exemption for home use.

On page 39, we're proposing to lower the appeal threshold which is currently 20% to 15%. That is the amount of the, the difference between where the appellant believes the market value is and where the current assessment is, it's the difference that constitutes a valid appeal. Page 39, changing of the deadline and the appeals structure, we're moving the deadline for appeals again a second time from the original 2416 bill of March 10 to December 31 to expedite again the certification of the assessment list.

Then on page 40, increasing, proposed an increase to the cost of appeals from $10.00 to $25.00 for owner-occupants and $75.00 for all other properties.

That concludes the presentation of Bill No. 2417. I would love to field your questions.

Mr. Bynum: (Inaudible) I think we've all experienced, it's something that's important as our budget process is really truncating. We make really complex decisions in a short period of time. One of the big benefits of this will be allowing us to have a much more thoughtful budget process, to have the data that we need in order to make decisions, about making changes within a sufficient time to make those changes in a given tax year. So if you have good information and data, you need time to do it. I just want to let Councilmembers know that I've started dialogue with the Administration and staff here about looking how these changes might require changes in Council Rules, Charter changes. In really looking at a bold budget process to make sure we have sufficient information and sufficient time to make good judgments, and to make adjustments year to year, relating to changing financial conditions of both the County and the economy right? Was that a good summary of why these dates are being changed?

Mr. Hunt: The dates are being moved forward for budgeting purposes and beginning about mid January the Director of Finance starts asking me "where are we today? What are you projecting for the value changes?," because value changes is one of the components obviously of the tax revenue. With caps and other things it's a little more difficult to narrow down exactly what the revenue is going to be. But in beginning January or mid-January we start getting requested for what we call flash totals for where we are today, where we are today, and they're continually revised and revised until about mid-February to late February. Then the assessment notices go out in March. So we're proposing to kind of push that forward because by March, when you guys are hot and heavy into the discussions on budget, it's still somewhat of a guesstimate as to what those revenues are going to be. They're not exact yet.

Mr. Bynum: So I just want to put that in context that this is some of the changes. It may also require changes in the way we schedule our budget sessions, it may allow more time to discuss revenues and not just expenditures, it may allow like I said to make those judgments based on real data and also to make changes in the tax year that impact that year, not have to wait for the following year.

Mr. Hunt: Correct.

Mr. Bynum: And so, that may also require Charter changes. So I'm asking the County Attorney, our staff, the Real Property staff, and the Administration to kind of team together to...You started the process, great, but we need to make sure that all of those elements are in place. We know Charter change takes, and elections, so...I just want to let the Council know that we're engaged at the starting point of what the implications of this are for other processes: rules, Charter, that kind of thing. That's why there's so many date changes here. I think by breaking into two years and saying – here's what we can do now. So the first part there are a lot of kind of process and procedural clean up language, making the tax code more clearer to a lay reader or Council reader.

Mr. Hunt: Right.

Mr. Bynum: But the substantive changes, most of them come in the next year. The primary one being, and huge, changing taxation by use as opposed to by where it was zoned. Just one example, that's why creating I assume a vacation rental tax category because that's a use. It may be zoned in single family residential, but the use is different, right now, taxed the same. So I just wanted to make those kind of rounding comments and then open it up for questions.

Mr. Hunt: Okay.

Mr. Bynum: Councilmember Rapozo.

Chair Furfaro: I'm going to leave. Two quick questions, just a quick one. Can your office provide us the 10 year history on the Honolulu...

Mr. Hunt: CPI?

Chair Furfaro: CPI, yes. Could we get a 10 year history?

Mr. Hunt: Absolutely.

Chair Furfaro: Obviously, we're saying that the changes, your tax would be tied more to the CPI but never less than...oh you have that?

Mr. Hunt: Yes.

Chair Furfaro: Okay, great I'll pick that up or somebody from the staff can. But it would never go above 2%. And then we're talking about the income framing?

Mr. Hunt: Yes.

Chair Furfaro: Well you talk in terms of framing it like for a family of four or, I didn't see it. Usually this stuff that we get either from HUD or from our own housing is income based on a number in the family.

Mr. Hunt: Right.

Chair Furfaro: Your slide didn't say that.

Mr. Hunt: No, and we haven't done that. We're doing that for the low to moderate income exemption which is the long term affordable lease...then it is by room count and a certain rent level that they can charge, that is correct. On just the household income we don't say- well you're a household of one therefore your income can be lower, and you're a household of five your income is higher. We haven't scaled it that way.

Chair Furfaro: Okay. Do you plan to?

Mr. Hunt: We hadn't considered that to be honest.

Chair Furfaro: Okay well that answers my question, I just wanted to make sure we were working with numbers that are consistent with other divisions, so thank you. I obviously think we should have a hard look at that because a family making $69,000.00 as the median of the lower portion of Kaua'i. If they have a family of four dependents, then they obviously have a tougher cost in running the household.

Mr. Hunt: Right.

Chair Furfaro: So that's the only two questions I had, Mr. Byum thank you very much.

Mr. Bynum: Thank you Mr. Furfaro.

Chair Furfaro: And you do have my excuse?

Mr. Bynum: Yes. So Councilmember Chang and Councilmember Furfaro have other commitments and I'll be here for the rest of this Committee Meeting. Mr. Rapozo.

Mr. Rapozo: Thank you. My first question may be construed as a joke, it's not, it's serious.

Mr. Hunt: Okay.

Mr. Rapozo: You've made a lot of changes and it's the "on or abouts," or the "shalls," I would suggest that you find out if those are directory or mandatory. I think that is important because for obvious reasons...Well I will send something over to the County Attorney because it is a concern because these numbers coming over to the Council is important because it ties in with the budget. I want to find out if the intent is directory or mandatory. That's a question I will pose over to the County Attorney. The second question is, and it's probably a general question as it relates to tax assessments but, why is there a threshold on assessments? In other words...

Mr. Hunt: For appeals?

Mr. Rapozo: We're dropping it from 20% to 15%, which is a good thing, but basically and I get asked this question a lot and I really cannot answer it, but we allow the assessors or the assessments to be off by 15,000 for every $100,000.00 and they don't have an opportunity to appeal that. I guess that's, why is that?

Mr. Hunt: It's really a function of what we do en masse and just as a real general reference to a bell curve, you're going to have outliers and anything beyond a certain standard deviation from your norm is an outlier. They're assessable, but they're saying in order for us to have 100% market value on every single property is really unrealistic.

Mr. Rapozo: Right.

Mr. Hunt: Unless we want to have 4,000 appraisers annually go out and assess it. And even that, it's an opinion of value, that's what an assessment is: an opinion of value.

Mr. Rapozo: Right.

Mr. Hunt: So it's supported with data. But what we really have to do is basically set up benchmarks. We're saying, we've got five sales in a neighborhood, and our average benchmark say is $20.00 a square foot for a 10,000 square foot for 200,000 a lot but one sold for 210, one sold for 205, one sold for 195, you know, we have this range so they're not relative to what they paid. They may not be a 100% accurate, but it's, if you're looking at sort of the mean or standard deviation if you're keeping it very tight then you're doing a good job.

Mr. Rapozo: Is that generally an accepted practice throughout municipalities, that threshold? Is that typically what...

Mr. Hunt: The threshold varies from municipality to municipality, but I believe City and County has lowered theirs to 10% but they have a lot more standardization. They have large tract home neighborhoods, they have Mililani's and they've got Waikele's and they've got a lot of model homes that are very easy for them to do. When you start getting into a subdivision that has all owner-builders or building their own plans there's a wide variety. You get people who overbuild for a neighborhood, under build for a neighborhood and so the values tend to range more. In discussions with my counterparts on the Big Island and Maui where they have more rural properties like we have, they said 10% is unrealistic to drop it. That was our initial intent was to drop it to 10%, but we didn't want to incur a massive onslaught of appeals and waste all our time on appeals side instead of getting the values right. So the compromise was, we have to lower something, and getting to a single value is definitely going to help us so we're not arguing components of value anymore. We're just saying- this is the value of your total property.

Mr. Rapozo: Okay, well I do get that question a lot and I never knew how to answer it, so I do now. Then my last question is, regarding what the Chair just mentioned as he walked out, the CPI. Because we're moving now from not exceed to percent, we're going to put a base now and I heard your explanation. Regardless of the economy the County expenses still are incurred, but I mean, and I agree with that but yet if the economy gets bad and tax revenue should drop then I think, and maybe it's incumbent on the government to maybe cut expenses. I mean if CPI is 28% or 1.1% I find it difficult to tax, to increase the tax to 2%. I'm just having some trouble with that. Like I said I understand your explanation but I don't see why taxpayers should pay more than the CPI.

Mr. Hunt: Now understand too that the cap is, the 2% we're talking about is only to those properties that are receiving the PHU credits. There are properties that have had no PHU credits because they bought market and they watched their value decline. So by allowing the 2% as a floor, that will bridge the gap as those two numbers come closer together. So I know there had been some concern about the disparity between those that have cap and those that don't have cap and by allowing the cap to stay a little bit higher, that actually might help in bringing those two numbers closer together.

Mr. Rapozo: Okay, that's all I have thank you.

Mr. Bynum: (Inaudible)

Mr. Kuali'i: Aloha Steve mahalo for being here. I was wondering if in your cleaning up the language, if you folks thought about the passage of the civil unions law and how it's taken effect on January 1? I see in several places in Bill No. 2416 and Bill No. 2417 where there's reference to "husband and wife." In Bill No. 2417 I do see parts where they talk about "spouse," and "surviving spouse," but I think it would be good to clean that up and remove "husband and wife," and replace that with "spouse," because the state law talks about a party to a civil union shall be included in any definition of use of the terms "spouse, family, immediate family, dependent, next of kin." And then they say – and other terms that denote spousal relationships which would cover husband and wife, but I think husband and wife more and more is becoming a sort of outdated terms and a few constituents have brought that to my attention. I guess, you think you might have overlooked that or...

Mr. Hunt: To be honest, I left a lot of the legalese to the attorneys and where he or she, she was comfortable with it but I don't have a problem…

Mr. Kuali'i: You wouldn't have any objections to…

Mr. Hunt: No.

Mr. Kuali'i: Maybe making an amendment and doing "spouse" instead of "husband and wife." It would still be, the meaning, everything else will still be the same. Okay, thank you, thank you Mr. Chair.

Mr. Bynum: Any other questions from Councilmembers?

Ms. Yukimura: Yes, in the merging of the land and buildings into real, into one category of real property we're disallowing the use of different rates on land and building?

Mr. Hunt: That's correct.

Ms. Yukimura: And in some cases where we have people who are land rich but income poor, it's been a useful distinction where we've I think put higher rate on buildings so that the wealthier people could pay but those who were land rich and income poor, which are some of our older families on heritage lands or lands that they've inherited, we've been able to make some adjustments to kind of balance it out. I'm a little concerned about losing that.

Mr. Hunt: Okay. Just as point of clarification, we actually haven't done that. The tax rate for building on single family or homestead is $3.44 for the improvements and it's $4.00 on the land. So it's actually higher on the land and the same is true on ag. It's $4.25 for the buildings and $6.90 on the land. So in concept the tools are there, but in application that hasn't been done.

Ms. Yukimura: I remember though in our reform packages that we had proposed some of that.

Mr. Hunt: It had been discussed in both the 2004 RPI, I'm sorry the Real Property Tax Task Force Initiative and then also the RPI Initiative from the Administration. There had been talk about changing the thresholds between the tax rates and favoring it more towards a low land rate, that is correct.

Ms. Yukimura: And it may have been in the context of not having a cap anymore, I don't know.

Mr. Hunt: I think the combination of having the circuit breaker, the cap, and possibly the income exemption, they've provided quite a bit of relief and held that relief intact. So I think the measures that we're proposing are not to remove a lot of that although the circuit breaker is being proposed to remove more from an administrative standpoint, but allow those recipients that are currently receiving to receive those as PHU credit benefits. So again we're not talking about taking away any of the benefits currently afforded, but to get to something that is easier to implement.

Ms. Yukimura: Okay. Yes I would love to have some other thoughts on this.

Mr. Bynum: I mentioned earlier that we had proposals in 2004 and in 2008 and an integral component of those proposals was a 3 to 1 ratio where land would be taxed at a much lower rate than building. That acts as a progressive kind of taxation and that those families that Councilmember Yukimura has mentioned that may have inherited land which has now become very valuable and are having a difficult time with the taxes because they're paying this assessment would be taxed very differently than their next door neighbor. So if you have land that is valued at $5 million and you have a modest home on it, if you tax the land at a much lower rate than the home that gives relief to that family. Right next door might be the same $5 million worth of land but with a 6,000 square foot huge home. And so that's one of the questions I'm struggling with in this discussion because I really liked that proposal and it helped make the property tax progressive. So it helped low and moderate income people. But there are other ways to do that and I know...I'm still struggling with that. But that was a proposal that was never implemented.

Ms. Yukimura: And you're saying that we're attaining that kind of result in a different way?

Mr. Hunt: We have received those results, I mean we've already had relief through the cap – the PHU. We're not proposing to eliminate that so all the benefits that have been accumulated will continue to accumulate. The passage of a family member, one property to the next generation does not constitute a breach. It's not a sale or a transaction deed that would do a base reset. That is allowed to pass through. So those cap benefits, they may lose the, if they had an age there may be adjustment for an age, they may not be 70 years old or older so they may lose a minor tax dollar adjustment. But the bulk of the relief that had been established by their parents or grandparents may still be intact from that passage of land. And so a lot of that relief measures that had been in place are continuing to protect them.

Ms. Yukimura: How would the removal of the circuit breaker, can you explain again how you're "quote un-quote" grandfathering in those who have been having...

Mr. Hunt: Sure. Right now we monitor the market value, market taxes and we calculate that annually based on their normal calculations: the value of the property, less the exemptions times the tax rate, we come up with a market tax. Then we compare it to the previous year's tax plus the current 2% cap, and if there'd been any changes to the property: additions, or a loss of exemption or a gain of an exemption, anything that had changed from last year to this year, those adjustments are also accounted for to come up with a new cap tax. The difference between the market tax and cap tax becomes their PHU credit. Now when the circuit breaker is involved there's an additional credit. If the circuit breaker, the total credit exceeds the amount of the PHU credit...let's take a Hanalei property that has a market tax of $20,000.00, and they have a capped tax of $5,000.00, so they're getting a $15,000.00 credit. $5,000.00 of that credit may be due to the circuit breaker and $10,000.00 may be to the permanent home use. What we're talking about is if we eliminate the circuit breaker, we would take that $5,000.00 credit, add it to the PHU credit and they would still retain the $15,000.00 credit but it would all be PHU credit. We would no longer separate the two credits.

Ms. Yukimura: So that their situation would not change at all?

Mr. Hunt: No.

Ms. Yukimura: Okay. And the definition of "income" is still remaining the same?

Mr. Hunt: The definition of "income" we're proposing to change from an "adjusted gross income" to a "gross income." But the income exemption is separate from the circuit breaker. It has always caused confusion which is another reason we want to get rid of the circuit breaker, is they submit tax returns for the circuit breaker application which essentially says – roll back my taxes to the 2001 taxes, or what they would've been in 2001. Then the other one is – here's my circuit...my income exemption, calculate my age, my income, my market tax. And so you're doing this calculation and ultimately we say – well the 2001 tax was still a better deal, you go there, here's your circuit breaker credit. So it's actually two applications. They both require tax returns and it's been very confusing.

Ms. Yukimura: So you're going to do it into the future with just one application and calculation?

Mr. Hunt: That would be correct. We'd be looking at eliminating the circuit breaker, having just the income exemption, expanding the definition of "income," having a higher exemption amount, but any benefits accrued to the former circuit breaker would now be accrued to their Permanent Home Use on a go-forward basis.

Ms. Yukimura: Okay thank you.

Mr. Hunt: (Inaudible.) asking whether or not we have the numbers for the circuit breaker applicants and where they are. I believe there's between 300 and 400 that currently have circuit breakers or have applied for circuit breakers.

WALLY REZENTES, JR., DIRECTOR, DEPARTMENT OF FINANCE:

So in essence...

Mr. Bynum: Those folks, no change will happen? They're grandfathered in.

Mr. Hunt: Correct.

Mr. Bynum: But there won't be new applications for circuit breakers?

Mr. Hunt: New applicants, correct. Yes they have been declining as properties sell or people die, things happen.

Mr. Bynum: And then if I could follow up on the income and exempt. The change of definition is related to folks who may have been getting an income deduction even though they have investments that give them a very high income because of the way it's currently written. They can be making many many many dollars, but their adjusted gross income on the income tax is low and they get an exemption even though they're wealthy.

Mr. Hunt: That's correct. The adjusted gross income is not a true reflection of what they're actually earning. And they may have the expenses to offset their earnings, but then essentially then the County would be subsidizing their investments. You get your write-offs, you get to invest, you get all those credits you know to write-off to show a small AGI and we're going to give you an exemption for that. We're saying – no, we should make this for people who truly don't have the earning capacity or are earning a lot lower level of income gross.

Mr. Bynum: Other questions from Councilmembers?

Ms. Nakamura: Thank you Steve. It's been very informative and I really appreciate the thought that went into all of these amendments.

Mr. Hunt: Thank you.

Ms. Nakamura: I have some questions. One having to do with the dedication, the ag dedication. I'm looking at, shucks this isn't numbered, page 5 of the first bill. There's a section here that you're adding for parcels 100 acres or more.

Mr. Hunt: You know, I look at that and I talked this over with Damien Ventura our Ag Specialist. This was something that he and Kim Hester discussed with Jennifer Winn on adding. It's actually already in here, it's actually, we're taking away...

Ms. Nakamura: Yes, well that's why I was confused.

Mr. Hunt: And I don't know why it's underlined, it shouldn't be underlined we should be redacting the portions that are coming out as opposed to underlining this.

Ms. Nakamura: Well the two paragraphs under there, there's a section that's taken out that's deleted. But it got moved up above, it got added in up above but at the same time I think what got taken out, and I don't know, I wanted to understand why, is what happens to parcels under 100 acres? So for parcels over 100 acres you have to show that minimum of 100 acre or 50% of the dedicated whichever is larger, must be in cultivation or production at the time of filing the petition to dedicate. So what got taken out two paragraphs below is what happens to those parcels under 100 acres. So I was just wondering were you not wanting them to have that same standard?

Mr. Hunt: Well, again this was not my insertion.

Ms. Nakamura: Okay.

Mr. Hunt: I wish I had that thing in here, but it looks like the sentence right before parcels under 100 acres was removed. And this had to do with, because it said land areas that are part of the tree farm management plan. This was not meant, because it's in the ag dedication it wasn't meant specifically for tree farm. It was meant for all ag and that's why this was removed. It had to do with the transition of, once you've gotten your exempt, because a tree farm falls under the exemption section. Once you've gotten your 20 year exemption or 25 year exemption and you've done your first harvest, what happens to the replanting of trees? You don't get another exemption; you get your exemption once. So it has to roll into something and we're saying it goes in, basically into farming. But you have to have it in production. You can't start, you know plowed everything, taken all the trees down, I got nothing planted and now I want an exemption. There's nothing, there's no new plant schedule, nothing. So essentially saying you had to have it in production before you can come and apply for that, for the dedication.

Ms. Nakamura: Okay. And for parcels under 100 acres...

Mr. Bynum: May I? I did all of my research based on what was submitted previously. What you submitted today appears to be different (inaudible).

Ms. Nakamura: I'm looking at a previous document.

Mr. Bynum: Right, so (inaudible)

Ms. Nakamura: That we received at first reading.

Mr. Bynum: What they gave us today doesn't appear to have that section bracketed. So there seems to be some changes.

Mr. Hunt: This was revised when the alternative energy piece was removed.

Mr. Bynum: The sentence it starts for parcels 100 acres or more, a minimum of 100 acres right that's bracketed (inaudible).

Mr. Kuali'i: In his, today's document page 5...

(inaudible discussion amongst Councilmembers)

Ms. Yukimura: Bottom of page 5 is it?

Mr. Kuali'i: Yes, bottom of page 5.

Mr. Bynum: You're right I'm sorry I've just confused...

Ms. Nakamura: Okay. I guess...

Ms. Yukimura: There still remains a question: what is the intention with the parcels under 100.

Mr. Hunt: Okay so reading that on further, it actually looks like this portion was copied and taken out from the section that follows because they wanted it, there still is the language about the tree farm below it. So I'm assuming that this was put in to say – hey the same language applies to ag dedications as well as it does to the tree farms.

Ms. Yukimura: Mr. Chair?

Mr. Bynum: Yes, Councilmember Yukimura.

Ms. Yukimura: I think we might need our legal analyst to, or I don't know, our staff to just reconcile the two versions so that...And we need to all look at one and then look for any inconsistencies that, and I think Councilmember Nakamura has found one.

Ms. Nakamura: So anyway, I think Scott has my question and we can get a response to that, would you like to just move on?

Mr. Bynum: Yes, I apologize.

Ms. Nakamura: Excuse me. So then, I also had the question that the Chair raised about the Consumer Price Index (CPI). So you go with the greater of the, what you're proposing is that the, any increase in tax from the prior year shall not exceed the greater of 2% a year or the latest annual Honolulu Consumer Price index. So, and that's this list that you submitted to us?

Mr. Hunt: That has been the index over the past 10 years.

Ms. Nakamura: So the greater, so you would just do it the latest. So is it the, the latest...

Mr. Hunt: In this case the latest would be the 2010 since we only have half of the 2011...

Ms. Nakamura: Right.

Mr. Hunt: So we would be at 1.68%.

Ms. Nakamura: 1.68%, so in this case you would go with the 2%?

Mr. Hunt: Correct.

Ms. Nakamura: Okay. Thanks for providing that, that gives you a sense of volatility. On page, sorry this one is not numbered. So I guess we should have, this was submitted to us probably at first reading when I received this and pulled it out of our packets. So we should try to get it page numbered too. But this has to do with, this is Section 11-3, it's right above Section 12.

Mr. Hunt: This is the multiuse properties?

Ms. Nakamura: Yes the multiuse property, so the entire property shall receive the permanent home tax limit but shall be classified and taxed at the highest applicable use tax rate.

Mr. Hunt: So if a property were used both as a vacation rental and as an owner occupied and say they used it four months of the year vacation rental and eight months of the year as their owner, they would get the vacation rental rate applied to it. They would still have the benefit of the cap and they would still have the benefit of the home use exemption, but they wouldn't get the homestead rate.

Ms. Nakamura: Okay. So this would probably not be revenue neutral but probably would include the additional...

Mr. Hunt: With the inclusion of what's included in Bill No. 2417 which really is a tax on use, there's going to be a whole lot of movement. You're going to see properties that are currently second homes or long term rentals that are in the ag district that are currently paying ag tax rates which are much higher, moving to a residential class, because they're being used as a residence.

Ms. Nakamura: I see.

Mr. Hunt: You'll see some of those being moved to vacation rental. You'll see some of the single family moving to vacation rental. You'll see some conservation moving to residential. There's going to be a lot of movement, all of the apartment class, all the condos are no longer, there's no longer a condo class. So they're going to be classified as vacation rental, or they can be classified as long term rental, or affordable long term rental, or owner-occupant. So there's going to be a whole resetting if you will, of a lot of the properties in terms of what their classes will be, so the values in each group are going to change. So it's kind of a clean slate to really look at rates and how we're going to set them.

Ms. Nakamura: Okay.

Mr. Bynum: (Inaudible) in some instances that's going to decrease revenue and in some instances it's going to increase revenue.

Mr. Hunt: Right.

Mr. Bynum: So it does have an impact on revenue as creating a vacation rental class presumably that will be at a higher rate than we currently are in a single family residential place.

Ms. Nakamura: I have more questions.

Mr. Bynum: (Inaudible)

Ms. Nakamura: So I also wanted to raise the concern raised by the Chair earlier about the affordable rental housing guidelines. I, right now the guideline is it $40,000.00?

Mr. Hunt: Yes.

Ms. Nakamura: Income. And the Housing Agency publishes this Affordable Housing Rental Guideline that does it by household family size.

Mr. Hunt: Correct. We use that for the long term affordable rental qualifications – what rents will qualify. And that's what we'll be using for our 80% the median income for rent guidelines. But we don't always know how many people are in a house.

Ms. Nakamura: Right.

Mr. Hunt: And so when someone comes in with their tax returns and files for a home we don't know whether there's one person or six people in that house.

Ms. Nakamura: Okay so I think what we need to do here is also clarify, if you're going to use the 80% of median household guideline for what size household are we going to use? If we're going to use these guidelines are we saying for a family of four? So then that would be...

Mr. Hunt: Well if you look at the top of that sheet at the very top corner on the left, it tells you what the median household income is. I believe it's seventy, depending what year if you have 10 or 11 year...

Ms. Nakamura: Okay I see.

Mr. Hunt: It's about $75,000.00 or $75,200.00 I believe.

Ms. Nakamura: $75,200.00.

Mr. Hunt: Because that's the 11 year okay. So it would be 80% of that.

Ms. Nakamura: Okay. Thank you. I think that's it.

Mr. Bynum: Councilmember Rapozo.

Mr. Rapozo: Thank you. Well the first thing is for the Committee, that we should be using the draft or the bill that's in the binder because that's what was passed at the first reading. So I'm not sure if it's the same as what's in, what they provided today.

Mr. Bynum: (Inaudible)

Mr. Rapozo: Bill No. 2417 has page numbers but not Bill No. 2416. The other thing, whether it's revenue neutral or not is really not the bill's issue it's going to be the Council.

Mr. Hunt: That's correct.

Mr. Rapozo: Because we'll set the tax rate.

Mr. Hunt: That's correct.

Mr. Rapozo: So we will determine whether or not it's revenue neutral. But I think the question is, as it stands today if we were to transpose the rates today and move into this system, have we done a model and see what would happen?

Mr. Hunt: We have not because we have to survey all the properties to find out how many are going to be in the new classes. Once we've dissolved the apartment class, how many go into vacation rental, how many go into residential, how many go into long term rentals. Same with the ag, there's going to be a whole, all these single family and CPR's that are being done on ag lands will likely go into either residential or vacation rentals. There's going to be mass redistributing of value amongst those classes.

Mr. Rapozo: Well that's actually a good thing I think. It'll give the Council an opportunity to set tax rates...

Mr. Hunt: Clean slate.

Mr. Rapozo: And based on what the budget requires so again it'll be up to us. If we want it to be revenue neutral, we set the tax rate appropriately. If we want it to be lower, we set it appropriately. So, I appreciate that, thank you.

Mr. Bynum: Councilmember Yukimura.

Ms. Yukimura: So this survey will be done after we pass the bill...

Mr. Hunt: Yes.

Ms. Yukimura: Into law and we will have the information then about the various categories and what our basis are, assessment basis are by the next budget?

Mr. Hunt: Well if we're looking at surveying everyone we're talking about the 2013 year which would begin, the date of value now is going to be moved to October 1, 2012 for 2013 so between completing this year's work for 2012 with or without stuff that may come from Bill 2416 we still have to get through the appeals, we have to get through the assessment notices. All that stuff, certification, and then jump right back into assessments and getting all the data coming in from the surveys to go toward our next assessment cycle. So we're actually going to send out two assessment notices during the calendar year 2012. So it's going to be a real compressed, real busy year for our office.

Ms. Yukimura: And the information we'll have for the next budget will be somewhat incomplete.

Mr. Hunt: For?

Ms. Yukimura: I mean will be based on I guess whatever is available...

Mr. Hunt: You're talking about for March 2012 Budgeting?

Ms. Yukimura: 2012 right.

Mr. Hunt: It'll be basically on the same type of information we're doing today. We're going to compress it and we're going to voluntarily essentially push up our notice of assessments and our delivery time to try and certify on or before March 31 as opposed to May 1. So we're getting a little, about a month in advance.

Ms. Yukimura: Okay. Well as Councilmember Nakamura said, we appreciate the work that's being done to create the framework and then the work that's going to be done to implement the framework. That is a lot of work but hopefully it will rationalize and streamline our real property tax system so that it's more functional and fair. Thank you.

Mr. Bynum: Councilmember Nakamura.

Ms. Nakamura: And just given all this new work that's going to be placed on this division, I hope that you'll have the adequate resources to carry this out because it is a wholesale change in methodology. I think that it's important to get it right, get it done so that the valuations are fair. So I'm hoping that if additional resources are needed that during the budget period that you request them because I think it's very important that we have adequate resources to carry out this new agenda.

Mr. Hunt: Transitional times are always tough and we're prepared for a couple of rough years to get through it. But again if you're looking at changing the framework that's going to ultimately lead to efficiencies and a better job, we're willing to take our lumps in the short term.

Mr. Bynum: Other questions for Mr. Hunt? (Inaudible) Thank you, I'll get used to that some day. But overall even though this will have some impact on revenues as Councilmember Rapozo said, it really comes back to the Council and our responsibility to set appropriate rates. I want to focus on some of those changes. I also want to say that the 2008 proposal made specific recommendations about changing who pays what. It was much more specific about changing increases in this rate, or not rate, increases in this class, decreases in this class. This proposal really is about structure right? It doesn't directly engage in a discussion about who pays what, correct?

Mr. Hunt: That is correct.

Mr. Bynum: Okay. So, but that is the Council's responsibility and I want to focus on that and for Councilmembers I think it's the fourth page of Bill No. 2417. Or the third page actually that starts with this section that says – real property tax determination of rates, section 5A-6.3. All of this language I've looked through pretty closely and it's really kind of clarifying language; it doesn't make any substantive changes. It just makes it actually clearer and more readable. But it outlines the responsibilities of the Council, and it addresses one of the questions that Mr. Rapozo discussed earlier about – is it mandatory or is it directatory (sic)? Those are new words, directatory (sic) is a new word. You know, I found this very interesting and something that I've been struggling with since I've been a Councilmember because this ordinance instructs the Council what to do every year right? Our Charter, responsibilities to set the rates every year and this gives us guidance. So what it says is, basically and I'm just going to do a summary of this. It says "First determine your revenue needs from property taxes...then have a policy discussion about who should pay what portion of that burden. How much should come from hotels and resorts, how much should come from resident homeowners, how much should come from vacation rentals, the different classes we have. Then when you determine who should pay what portion, do the math and set the rates accordingly." Have I done a fair summary of this section?

Mr. Hunt: That is my understanding of what this section reads with the one caveat being the rate setting alone will not determine the revenue you generate from the homestead classification because of the cap and PHU credits.

Mr. Bynum: Right. And so what I want to...yes because it doesn't do the homeowners exemptions and that's in the homestead class impacts that. Actually now it's spread around, it's mostly in a homestead class.

Mr. Hunt: Homestead class.

Mr. Bynum: But it's also in ag and single family residential. But under this proposal it'll all be in the homestead class correct?

Mr. Hunt: No.

Mr. Bynum: No.

Mr. Hunt: You'll still have properties that have two dwellings on them where one is the owner-occupant, that won't qualify for homestead.

Mr. Bynum: Oh yes okay. So I want to stick with this instructs the Council – do this every year, set the rates every year. Have you ever seen the Council do this?

Mr. Hunt: To be honest I haven't been involved in the budget hearings other than providing projections on the real property values.

Mr. Bynum: Okay. Well I'll say that I've never seen the Council do this right? We come into budget and we talk about expenditures and we don't go through this process that we're instructed to do. Section 'f' of this says – in so far as ability of any tax rate is concerned the provisions of subsections B and E of this as to dates shall be deemed directatory (sic). So it answers Mr. Rapozo's question. It says in these sections, hey we're giving you advice. But, provided that all other provisions of subsections B and E and all provisions of section C and D shall be deemed mandatory. Now the sections I was just talking about are those mandatory sections. In Council, every year first have a discussion about what your revenue needs are and then have a discussion of who should pay what, who should pay what portion of that burden. Then do the math and set the rate okay. Since I've been on Council we've never done that and I think that's a fundamental and serious flaw in our budget process. You know, your proposal unlike the 2008 proposal does not address who pays what okay. It has some inherent revenue increases and decreases by changing the use. But the other thing that's not in here from 2008 was changing the timeshare assessments okay. For whatever reason that's not included in here. So I just want to say that I have a bill pending that would address who pays what. And I think that the Council, while we go through these structural changes I would hope would anticipate as I said earlier what our structural changes in the budget process. But also engage in that process of saying – what's a fair distribution of the tax burden? Because in the 2008 the proposal said – we think people who have the homeowners deduction should have a 35% decrease in taxes and we're going to make that up by having vacation rentals, single family residential of non-homeowners people who own homes on Kaua'i but live elsewhere. And many of those may be second homes for wealthy people, that they are going to pay an increase. But people who live and work here are going to have a 35% decrease in their tax, that was the proposal. It didn't pass. But in the last three years since then 2008 to 2011 and I'm going to present this at length in the future of how this happened. But people who live and work here have had a 20% increase in three years and the taxes that come from that class. And people who invest here, vacation you know, hotels and resorts have had a 13% to 15% decrease in their taxes. Second homeowners who don't live on Kaua'i have had a decrease in their taxes. So you know the proposal was to decrease taxes for people who live and work here and make increases for people who invest here, and the exact opposite has occurred over the last three years. I would argue, because the Council has not followed its responsibility to go and have that policy discussion of "who pays what." I doubt if we did. We would say – hey, how about all the people who live here, let's give them a big tax increase while the people who invest here and own homes from out of state and do business here, let's give them a big decrease. I don't think we would do that. But that is in fact what has happened. And so with a combination of the bill I have pending and you're helping me with the analysis and also that time share bill which I'm working on a bill to repeal the timeshare provisions of this law that basically require you to assess them differently from everybody else. And we'll get into that when the bill comes here. But this is timely that we look at these structural changes which I think are really important. But I also want to engage the Council to engage in a process of having that policy discussion of "who pays what," and looking at what has happened because we have not changed our rates for six years. When we did six years ago we changed it by $0.05, nickel, we went down a nickel and in every category. Now that year was in a booming economy so even though we adjusted the rates down, most people's tax bills still went up right? So that's another really important consideration that there is no law that says as assessed values go up, your tax bill goes up. That's why the Charter requires us to set the rates every year alright? And just like there's no law that says when the tax rates go down or the assessed values, excuse me, go down, that your tax bill goes down. It goes down if we don't adjust the rates accordingly. So in a short version, why are homeowners paying more? Because they're, many of them, are not in that assessed value, they're under the PHU program. And so even though the assessed values are going down they're paying higher rates, or higher tax bills, cannot mix up those bills and rates are very important. But on the other hand those people, unless you've had a big tax decrease over the last three years, it's because their assessed values have gone down. The Council has not engaged in this process of saying – hey do we really intend these groups to have a 8 or 3 or $6 million decrease in the three year period? So that wasn't much of a question but I do have other questions.

But it was questions in terms of, this bill is really working at the structure not so much those issues I was just discussing. But this section I appreciate the cleanup of the language and then I had questions about other sections. Like other Councilmembers, the PHU and this bill stays intact, the permit or cap commonly known as "the cap." However it does say – let's make that the greater of 2% or the Honolulu CPI. I'm questioning whether if we're going to tie it to the CPI why wouldn't we just tie it to the CPI? Why does it, if the cost of living goes up 0.50% why would we increase homeowner's 2%?

Mr. Hunt: And I think that would...that's a question?

Mr. Bynum: Yes. I think so.

Mr. Hunt: Okay. The Honolulu CPI may not include such things as fuel and food. So often it may not be really representative if there's a 0.50% increase in the CPIU, it may not include some other items that are inflating. Primarily energy and fuel is what's probably driving cost of government and other services here. And again as I mentioned some of the pre-negotiated contracts that may have increases that exceed the CPIU. Fundamentally one of the concerns that you had expressed to me on earlier occasions was the disparity between those that are capped and those that are not capped, depending on when they got capped.

Mr. Bynum: Right.

Mr. Hunt: By having a higher cap, if it's 2% then CPIU is only 1%, every year that cap is a little bit higher it gets closer in a downward market to having those values or taxes paid between non-capped and capped closer together. So that possibly could be another justification to having that floor.

Mr. Bynum: So the chart you handed out basically says in a 10 year period the Honolulu CPI has gone up 27% or basically 2.7 on average per year?

Mr. Hunt: Right.

Mr. Bynum: You know some years it was .95% and other years it was 4%, but over a 10 year average it's about 2.7, am I reading this correctly?

Mr. Hunt: Yes, that's how, yes.

Mr. Bynum: So I don't have the answer to that. When I read this I thought why not a greater 0% or the CPI. So if the CPI is 1% then the increase would be 1% and yours were 3% then it would be 3%. Now you also mentioned that the cap, when a new person buys a home it resets and so in that six years where we never decrease the homeowners rate, some people are paying just a pretty low tax rate but their next door neighbor who bought the house you know, last year could be paying twice as much.

Mr. Hunt: That's correct.

Mr. Bynum: Even though theirs is the same value, and I have a difficulty with that in terms of goal being: fairness.

Mr. Hunt: And that's part of the explanation of why that homeowners class went up 20% during that period of time. You're having these turnovers and the percentage, you know someone who is paying $500.00 when the market taxes are $2,000.00 that percentage increase to jump up $2,000.00 is much greater than 2% obviously. So those resets that occur upon new owners taking occupancy are driving that big portion of that increase.

Mr. Bynum: And I won't go too much further with this today because, like I said there's a bill pending waiting for a further analysis of the current tax structure that I hope we'll address that issue help do that goal that I agreed with in 2008 of reducing taxes for the people that live and work here and own their own homes. So I want to move on to a different corner just to make sure I clearly understand it because I'm really excited about many portions of this bill. Particularly the affordable rental provision that you've come in here and so I just want to make sure I have that clear that you're going to say rather than 100% of median income it's 80% of median income which this year would be $54,000.00. So if there's a family...

Mr. Hunt: No, that's actually for the income exemption. For the, let me get the low rent numbers for you. I'll use 2010 because that is the year that we would establish...

Mr. Bynum: Affordable rental?

Mr. Hunt: Yes.

Mr. Bynum: Great.

Mr. Hunt: They're broken down by bedroom count. So under the 80% income someone who is renting a studio and it depends whether they include utilities or whether they're excluded the net rent without utilities they can charge under 80% now, $936.00, with utilities $1,129.00. For a one bedroom those numbers are $1,097.00 net of utilities or $1,290.00 with utilities. When we get to the two bedroom we're up to $1,205.00 net or $1,451.00. So a two bedroom you can rent for $1,451.00 with utilities, it's getting to me in my mind pretty close to market already.

Mr. Bynum: Right.

Mr. Hunt: And that's at the 80% level and currently without this change we're at the 100% level which is even higher.

Mr. Bynum: Right.

Mr. Hunt: When we get to the three bedrooms we're at $1,496.00 and $1,742.00 for gross rents with utilities. The four bedrooms is at $1,578.00 and $1,871.00. Then the five bedrooms caps out at $1,792.00 net or $2,129.00 for gross rent with utilities.

Mr. Bynum: Say the three bedrooms again was...

Mr. Hunt: A three bedroom and in this case they have family size of four or five I use the higher because we can't really, it's hard for us to verify how many people are living in, so we give them the higher. A three bedroom would be gross rent of $1,742.00 or a net of utilities at $1,496.00.

Mr. Bynum: Okay, so let's stick with that example, three bedroom house on Kaua'i that's renting for $1,496.00 or below will be eligible for this, what's the right word? To be taxed in the homestead class?

Mr. Hunt: It would be eligible for the homestead tax rate as well as any ongoing PHU cap.

Mr. Bynum: So previously we had 6% increase if, and fewer and fewer people were taking advantage of that correct?

Mr. Hunt: Correct.

Mr. Bynum: And so this would adjust with the changing environment in terms of affordable rentals. I'm really excited about this provision. It gets a little complicated because a lot of people who rent have their home and a rental on the same TMK. Under the current ordinance they get the homeowners exemption for the primary home right?

Mr. Hunt: Correct.

Mr. Bynum: But if this is a long term rental they pay the single, the higher single family residential rate.

Mr. Hunt: Or ag rate if it's on ag land that's correct, which is a much higher rate.

Mr. Bynum: Or ag land which is much higher. Now if the same owner has a homeowners exemption and they keep the rental below $1,496.00 for a three bedroom which is about market right now, then they're going to get the homestead rate on the entire parcel.

Mr. Hunt: Correct.

Mr. Bynum: And it's going to be a very big tax advantage to them and it's going to be a very strong incentive I believe to keep rents low. Most, in this current market most rentals or many many rentals on Kaua'i will, are right at that margin now. I think there will be a lot of owners who will take advantage of that, they will have a big tax incentive, and then if the market heats up, they're going to have a real incentive to keep that rent low and affordable for local people that live here. So we're really going to have to make a serious decision – hey do I want to take this rent above what's affordable at 80% of median and not only use the exemption on our rental but, or the lower rate sorry, on the rental but also on my own home. I think this is a very creative and effective mechanism to really incentivize in a serious way landlords keeping the rents low. And they acknowledge that we have a lot of landlords who even in the heated market were keeping their rents low because they know it impacts our community in a really serious way. Am I getting this right Steve?

Mr. Hunt: That sounds correct. That was our intent anyway, it was to help even as a housing policy to keep more rentals available was to have an incentive to do that.

Mr. Bynum: And I think this is a great time in terms of market because people can really get into that without perhaps adjusting their current rent at all. Now that same thing would apply if it was a rental standalone on the property. Owner owns this property, they're currently paying single family residential rate if they kept it affordable it would go down to the homestead rate. Which will be lower and I hope we're going to lower it even further but that's for future discussion. So I really really like that provision and I understand it correctly right?

Mr. Hunt: Yes.

Mr. Bynum: Because the other thing is that that document comes out – what's affordable every, so it adjusts with the market.

Mr. Hunt: It usually comes out about May of each year. So we're kind of chasing our tails because we have to make the applications available before then. So we're always using the prior year, although the 2011 numbers are available today if someone were coming in today to apply for the 2012 we would actually be using the 2010 figures.

Mr. Bynum: So I know I had other questions but I've lost my train of thought. I want to see if there's any other questions, Councilmember Kuali'i.

Mr. Kuali'i: I just had something quick. So, where were you reading those figures off of? Was that the Kaua'i County Housing Agency Affordable Rental Housing Guideline?

Mr. Hunt: Yes.

Mr. Kuali'i: And so that's the document that comes out each year in May?

Mr. Hunt: Yes.

Mr. Kuali'i: So how did you come up with 80%, why not 75%?

Mr. Hunt: Well they only list, currently they list 180 and 50 and the gap between 80 and 50 was quite a bit.

Mr. Kuali'i: I mean they only list, but you can do the math right and create the numbers...

Mr. Hunt: Actually, no they have to tell us what those guidelines are because the utilities change and the rent levels change.

Mr. Kuali'i: No but if they tell you what 100 is and what 80 is and what, you said 60?

Mr. Hunt: Right now they're using 80 and 50.

Mr. Kuali'i: 80 and 50?

Mr. Hunt: Right.

Mr. Kuali'i: So, but based on what those numbers are you can calculate what it would be for 79, what it would be for 75 or...

Mr. Hunt: I can calculate a percentage of the average or the median household income but it doesn't translate to rents. They actually have to create what the rents would be and they don't always correspond based on the rent income, I'm sorry on the gross income.

Mr. Kuali'i: I'm just thinking if what you were saying that, and so 50 would be too low, I mean...

Mr. Hunt: I think so. If you're looking at a three bedroom five person occupancy we're talking about net rent of $843.00 versus $1,496.00.

Mr. Kuali'i: So 50 would be too low but...I'm sorry I lost my thought there. I was just wondering if at 80% all we're getting is figures that are similar to market then we would get that anyway right from the market unless landlords were you know being greedy and trying to make the rents really high. But how do we get affordable rents? You know, which is for a lot of our family maybe just below market. But if we cannot alter from 80% to 75% then just because we can't do calculations we can't get them?

Mr. Hunt: Well it would be a question best served for the Housing Agency to find out whether they could provide additional tables at different rent at structured levels.

Mr. Kuali'i: Okay. Yes. Thank you.

Mr. Bynum: (Inaudible) because currently it's 100% so it's a reduction to 80% right?

Mr. Hunt: Yes.

Mr. Bynum: And the incentive is much greater than the current one right. And so I agree with what Councilmember Kuali'i is saying. Right now it's at market, but anybody that rents knows that rents are significantly down, that they're in a depressed kind of market at the moment because of the economy and supply and demand. That's why I think right now a lot of landlords would get in on it but we all assume in the future rents are going to go up and then there's going to be that ceiling where a landlord will really have to decide – hey do I want to give up this tax incentive which may also apply to my home as well and change that. And so I think the timing of this proposal is nice in terms of getting a lot of people in it and really having a strong incentive right. I agree with Councilmember Kuali'i's sentiment. Let's make the incentive, but this is a very significant lowering of the threshold to apply and increasing the incentive. Have I got that right?

Mr. Hunt: That is correct.

Mr. Bynum: That's why I'm pretty excited about it because you know we have 12,000 you know the number 260 resident homeowners who have homeowners available, who live and own and live in their home. And that's a big chunk of our community. But the other big chunk of the local working class people are renters. So I really applaud the Administration for the thoughtfulness of this, this provision. Councilmember Yukimura.

Ms. Yukimura: Yes, I want to thank you Finance Chair Bynum for explaining some of these things because they are complex and it's important for people to understand it including Councilmembers. I want to thank the Administration, Steve, you in particular for this very kind of thoughtful crafting or recrafting. I believe I was one of the Councilmembers who introduced that affordable housing tax credit or whatever it is and we were doing it in rough estimations. We kind of knew which direction we wanted to go but we were inexperienced and didn't think it all through, now with years of experience with it we say where it's lacking and where it doesn't really achieve what its purpose was. So you're helping us to fine tune it so it does work well. And it will go to the benefit of our community and our renter community. So thank you for that.

Mr. Hunt: You're welcome.

Mr. Bynum: Any other questions. Councilmember Nakamura.

Ms. Nakamura: Thank you. So this is relating to Bill No. 2417. I'm looking at page 5. You know in your PowerPoint presentation you said you talked about removing the apartment tax class and adding the vacation rental tax class. I don't know if that's showing up on our proposed draft Bill No. 2417 page 5.

Mr. Hunt: It should be on item A towards the bottom and it should show a redaction of the apartment and the insertion of the vacation rental.

Ms. Nakamura: All ours show is vacation rental is number 2.

Mr. Hunt: Let me also check Bill No. 2416 if it was taken out there. Maybe the other...

Ms. Nakamura: Oh okay, maybe that's where...

Mr. Hunt: I'd have to check because I know it was somewhat complex in having these done separately, and it may not be but...I think most of the use, the use came in Bill No. 2417 so it's probably not. I don't see it in Bill No. 2416 so it should reflect the bracketed redaction of the apartment in there and the insertion of the vacation rental.

Ms. Nakamura: Okay, alright. And on page, I just want to acknowledge you for adding the, allowing the subletting by disabled veterans I think that's a very good thing to do, so thank you for adding that. I wanted to also say that on page 30, Section 36-A1.

Ms. Yukimura: Which bill?

Ms. Nakamura: This is Bill No. 2417, page 30, Section 36-A1.

Mr. Hunt: I have that as page 31.

Ms. Nakamura: Okay. Just that last sentence there can you just, it's just an editorial I think there's some redundancy. If you read the last sentence, 36 A1 "except the at the minimum." It's minor.

Mr. Hunt: Okay.

Ms. Nakamura: And also on page 36 with respect to multiuse parcels that provide long term affordable rentals, I was wondering whether you would consider allowing rather than having these long term rentals who are committed to affordable housing over the long run, rather than having them to apply every year for this exemption whether it would be possible to treat it like a permanent home exemption where you file one time. If it should change, if the use should change then put the burden on the nonprofit to report that to the County.

Mr. Hunt: Okay this is Page 36.

Ms. Nakamura: Page 36 B, subsection B. It's 2B I guess.

Mr. Hunt: Okay I'm wondering if this is the, let me make sure I have the right section. Are you referring to the long term affordable rental or are you talking about the low and moderate income housing, they're two different...

Ms. Nakamura: Yes. Okay.

Mr. Hunt: I know with the long term affordable rental this is the one...

Ms. Nakamura: Oh I see.

Mr. Hunt: We're talking about the 80% and we need, we have to have a year contracted and we have to know if it's rented each year.

Ms. Nakamura: Maybe this is not the right one. I'm talking about...

Mr. Hunt: There is another one that's in the low and moderate income which are the more larger projects that come in and file. The ones that are Pakui funds and some of these other projects.

Ms. Nakamura: Yes, right, right.

Mr. Hunt: And again if there are multiple units we don't know that all the units are being employed. There could be issues where they're renting for non-market rents, or for market rents. It's something that's more of a reporting requirement to us to know how they're using each of the properties especially when you have, say 10 houses on one property and nine of them are rented under than and one is not. What portion of that would be taxable? So that's why we have the annual requirements.

Ms. Nakamura: Okay. In the case where a non-profit housing developer under their terms of financing is required to make all units affordable through 80% of moderate income median income over the term of the loan, 20 or 30 years would you consider it in that case?

Mr. Hunt: We would still have to amend language to do that and I think it would be appropriate where the entity that owns the property certainly would qualify if it's a non-profit entity that's specifically chartered to provide affordable housing as opposed to one that's maybe leased. Then there's whether they're upholding the terms of the lease, it's more of a compliance and enforcement issue for us the more open ended we leave it. But I think certainly those that are owned by corporations that are chartered to do it and are mandated through their Charter to provide those types of housing we would certainly consider that.

Ms. Nakamura: Okay thank you.

Mr. Bynum: Any other questions for Steve? If not (inaudible) some things came up today that I haven't thought of. We caught a couple of errors here and so I would encourage Councilmembers to read through this again. I assume Real Property will be available to answer questions from individual members. We'll take this up again in two weeks. Yes Councilmember Yukimura?

Ms. Yukimura: Just a question, I mean what we've been provided in these folders are actually working documents but in fact what we're passing is the bills as they've been given to us right? Bill No. 2416 or Bill No. 2417. I just want to be clear which bill, which version or printing we'll be actually working on amending if we have amendments and voting on.

Mr. Bynum: Yes I think some of the confusion today came from, you gave us a document that was formatted differently, the content was the same but I missed a bracketing because in my document it was on this page and this. So I just want to ask the staff and Real Property make sure next time we come here while working off the same document and maybe have some page numbers on them. I think there was some confusion, just because of formatting. Is that what you're referring to?

Ms. Yukimura: Yes that is.

Mr. Bynum: Because we need to work from the bill that's actually presented to us.

(Inaudible conversation amongst Councilmembers)

Mr. Bynum: I have in a binder but your document that has really nice highlighting and it's cool. But it wasn't formatted the same. So I think next time we discuss this make sure we're all working from the same document.

Ms. Yukimura: I have a suggestion.

Mr. Bynum: Councilmember Yukimura.

Ms. Yukimura: Maybe our staff could do the highlighting on our first reading versions including highlighting the brackets so we can see what's deleted because I noticed in your formatting you did not highlight the deletions and there's a justification for that. But it also, if we maybe just highlight the brackets that might help us see where the deletions are because that is part of the amendments.

Mr. Bynum: Maybe we'll come up with an agreeable standard on both sides because those brackets really drive me crazy. It's like you have to look – is that bracketed? Here's an end bracket but there's no beginning bracket. And so maybe we'll do brackets in green and additions in yellow.

Ms. Yukimura: It's worth experimenting.

Mr. Bynum: Any other questions for Steve? If not, thank you.

Mr. Hunt: You're welcome.

There being no objections, the meeting was called back to order, and proceeded as follows:

Upon motion duly made by Councilmember Yukimura, seconded by Councilmember Kuali'i, and unanimously carried, Bill No. 2416 and Bill No. 2417 were deferred.

There being no further business, the meeting was adjourned at 5:44 p.m.

Respectfully submitted,

Ihilani Laureta
Secretary

APPROVED at the Committee Meeting held on November 23, 2011:

TIM BYNUM
CHAIR, FINANCE / PARKS & RECREATION / PUBLIC WORKS PROGRAMS COMMITTEE